

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	Cause No. 2:16 CR 150 JVB
)	
MARLONN HICKS)	

GOVERNMENT’S MOTION TO ALLOW FILING OF REPORT

The United States of America, by its attorney, Thomas L. Kirsch II, United States Attorney for the Northern District of Indiana, through Assistant United States Attorney Joshua P. Kolar, respectfully submits this motion to allow submission of a report by Professor Lorenzo Vidino.

The sentencing of Marlonn Hicks (the “Defendant”) is set for April 25, 2018. Docket Entry 36. The sentencing hearing was continued twice, both times on the motion of the Defendant. Docket Entries 33 and 25. At the time that the government submitted its sentencing memorandum, the Defendant’s sentencing was set for March 30, 2018. Docket Entries 26 and 27. The government’s sentencing memorandum set forth that Professor Vidino would “detail the history of ISIS [and] review Hicks’s social media posts and communications to explain the trajectory of Hicks’s radicalization and

acceptance of ISIS's violent and abhorrent teachings", among other things. Docket Entry 27 at Pg. 5.

The government's expert, Professor Lorenzo Vidino, was available for the March 30, 2018 sentencing. However, Professor Vidino is not available on April 25, 2018 and was similarly unavailable for any of the other dates that were discussed between the parties and court personnel as alternative sentencings dates. The government has consulted with Professor Vidino and believes that a report prepared by Professor Vidino will adequately apprise the Court of the matters discussed in the government's sentencing memorandum. Professor Vidino has indicated that he believes he can prepare a report by early next week. The government asks for a deadline of April 11, 2018, which is 14 days prior to Defendant's scheduled sentencing hearing to submit Professor Vidino's report.

The Defendant was provided background information on Professor Vidino, including his qualifications and some prior writings and testimony on July 31, 2017. There is no need for a hearing under *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), *Kumho Tire Co. v. Carmichael*, 526 U.S. 137 (1999), or their progeny for the Court to consider Professor Vidino's report. See, e.g. *United States v. Hunter*, 145 F.3d 946, 952 (7th Cir. 1998) ("The Federal Rules of Evidence do not apply in sentencing hearings,

and the district court was entitled to rely on Lieutenant Murphy's testimony even if it may not have qualified as expert testimony under Federal Rule of Evidence 702. The Guidelines (and the Due Process Clause) allow sentencing courts to rely on information that has sufficient indicia of reliability to support its probable accuracy.”) (Internal citations and quotations omitted).

Wherefore, the government seeks until April 11, 2018 to file the report of Professor Vidino in this matter.

Respectfully submitted,

Thomas L. Kirsch II
UNITED STATES ATTORNEY

BY: /s/Joshua P. Kolar
Joshua P. Kolar
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on April 5, 2018, I filed the above caption
GOVERNMENT'S MOTION TO ALLOW FILING OF REPORT through
electronic process, with a service copy emailed to the following:

Scott L. King

Respectfully submitted,

/s/Joshua P. Kolar

Joshua P. Kolar
Assistant United States Attorney